

**THE NATIONAL SCIENCE FOUNDATION PLAN FOR
OPERATIONS DURING A LAPSE IN APPROPRIATIONS
December 11, 2020**

Lapse Plan Summary Overview			
	NSF*	OIG*	NSBO*
Estimated time (to nearest half day) required to complete shutdown activities:	0.5 days		
Total number of agency employees expected to be on board before implementation of the plan:	1,419	67	39
Total number of employees to be retained under the plan for each of the following categories**:			
Compensation is financed by a resource other than annual appropriations (Exempt):	198	0	0
Officers appointed by the President (PAS, Military) (Exempt):	3	0	22
Necessary to perform activities expressly authorized by law (Excepted):	0	0	0
Necessary to perform activities necessarily implied by law (Excepted):	60	7	2
Necessary to the discharge of the President's constitutional duties and powers (Excepted):	1	0	0
Necessary to protect life and property (Excepted):	30	18	0

**Columns denote staffing for the National Science Foundation (NSF), NSF Office of Inspector General (OIG), and the National Science Board Office (NSBO).*

*** The number of employees represented here are estimates for staff needed to perform specific functions and may fluctuate over the duration of a lapse.*

Brief Summary of significant agency activities that will continue during a lapse:

NSF will use available carryover balances to continue daily operations. Once those balances are exhausted, NSF systems for proposal preparation and submission will remain open during a lapse in appropriations (Research.gov and FastLane). The Awards Cash Management Service (ACM\$) and the Invoice Processing Platform (IPP) will remain open for the submission and processing of valid payments for awardees and contractors. Awardees may continue performance under their NSF awards during a lapse in appropriations, to the extent funds are available, and the period of performance of the grant or cooperative agreement has not expired. In the event of a lapse, more detailed information on NSF operations for awardees, panelists, and employees will be posted at www.NSF.gov, and will be updated as necessary during a lapse.

Brief Summary of significant agency activities that will cease during a lapse:

In general, no new grants, continuing grant increments, or cooperative agreements will be awarded. No new funding opportunities (Dear Colleague Letters, program descriptions, announcements or solicitations) will be issued. Responses to any inquiries received regarding upcoming deadlines will be deferred until normal operations resume. All panels (including virtual panels) scheduled to occur during a lapse in appropriations will be cancelled and will likely be rescheduled to a later date.

BACKGROUND

Section 124.2 of OMB Circular A-11 requires all agencies to maintain contingency plans to deal with a possible lapse in appropriations and that these plans be updated and submitted to OMB for review every two years. This document serves as the updated plan for the National Science Foundation.

The OMB guidance requires agency plans to be consistent with the January 16, 1981 opinion of the Attorney General on this subject. The Office of Legal Counsel of the Department of Justice issued an update to the opinion dated August 16, 1995. The essential elements of the Attorney General's opinion are:

- In the absence of new appropriations, Federal officers may incur no financial obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law.
- Under authority of the Anti-Deficiency Act, Federal officers may incur obligations as necessary for the orderly termination of an agency's functions and for activities that protect life and property, but no funds may be disbursed for payment of those new obligations.
- Under its enforcement responsibilities, the Department of Justice may apply the criminal provisions of the Anti-Deficiency Act against alleged violators.

SCOPE AND APPLICABILITY

These shutdown requirements are applicable to the National Science Foundation (NSF) when the agency's appropriations lapse (regular, contingency, or supplemental) and the agency does not have other appropriations (prior multi-year carryover balances) available to cover daily operational costs. Given that the duration of a lapse in appropriations is inherently uncertain, this plan describes NSF actions to be taken during a short lapse (1-5 days). In addition, NSF's response to a lapse in appropriations is also influenced by the other organizations and appropriations impacted, funding availability and transfer authorities for those appropriations, status of contracts and interagency agreements, timing and duration of a shutdown, and evolving risks. Therefore, this plan is an outline from which NSF will adjust as appropriate and in keeping with governing legal parameters; NSF may need to recall staff to perform additional functions as allowable by law.

DEFINITIONS

The following terms are defined because of their special significance to the processes authorized under these circumstances:

Excepted Activities – Activities which are authorized to continue in the absence of appropriation authority; obligations for excepted activities may be incurred but not paid until an appropriation is made.

Non-excepted Activities – Activities which are not authorized to continue in the absences of available funds; no obligations can be incurred for these activities and they will be discontinued until an appropriation is made.

Shutdown Activities – Activities which are necessary to transition from a fully operational mode to a mode which only supports excepted activities.

Lapse in Appropriations – The period of time during which appropriations are not available and only shutdown or excepted activities can be carried out.

Excepted Employees – Employees who are permitted to continue to perform their duties during a lapse in appropriations because those duties are necessary to accomplish excepted activities and who are therefore excepted from furlough.

Exempted Personnel – Staff are “exempt” from furlough if they are not affected by a lapse in appropriations. This includes Intergovernmental Personnel Act (IPA) assignees, American Association for the Advancement of Science (AAAS) Fellows and Einstein Fellows where the fellow is on detail to NSF from non-Federal organizations and the Federal portion of the cost is obligated from prior two-year program appropriations.

PLAN FOR OPERATIONS UNDER A SHUTDOWN

Shutdown Notice to Staff (and on-site awardees)

In anticipation of a lapse of appropriations, steps will be taken to ensure that the Foundation is in a position to limit its activities, first to those activities directly related to an orderly shutdown, and then to exempted and excepted activities. It is anticipated that shutdown activities will require a half day.

On the date/time prescribed by OMB, the agency will issue a notice to staff advising them of the Foundation’s general approach to the possible lapse in appropriations and address questions they may have. Upon a lapse in appropriations, the Director will issue a special bulletin to staff to begin the shutdown. The bulletin will also identify the excepted activities. Excepted employees who must continue to work during the lapse will be notified.

NSF’s total workforce includes approximately 2,000 personnel, including NSF employees, detailees, assignees pursuant to the Intergovernmental Personnel Act (IPA), and on-site contractors.

- It is anticipated that approximately 90 federal full-time employees (FTEs) will be used to protect life and property and for other excepted activities during a lapse. None of these employees are engaged in military or the direct provision of health care activities; nor are they compensated by a resource other than annual appropriations.
- There are approximately 220 IPA assignees, AAAS Fellows and Einstein Fellows that are exempt from furlough and will continue working off-site and without federal government employee support.

The number of employees represented here are estimates for staff needed to perform specific functions and may fluctuate over the duration of a lapse.

Notice to Funded Contractors

Contractors may be directed by the NSF Contracting Officer to work under those contracts that are in support of excepted activities and/or excepted employees where funding has been obligated from prior year funds or in limited circumstances where multiple-year or no-year appropriation funding is available for obligation. Additionally, contract activities with obligated prior year funding may continue where ongoing Federal monitoring and the use of NSF facilities is not required.

Notice to Awardees

As part of the shutdown activity, a notice will be sent to the Foundation's off-site awardees informing them that work may continue on all awards to the extent that doing so will not require federal staff intervention and that funds are available.

NSF-Identified Excepted Activities

New obligations during the lapse in appropriations will be limited to those needed to shut down the Foundation and maintain the excepted activities necessarily implied by law to conduct and maintain an orderly shutdown and orderly reopening; and activities that are necessary to protect life and property.

No payment for new obligations (e.g. for shutdown activities or for excepted activities) incurred during the lapse in appropriations will be made without an appropriation.

- *Conducting and Maintaining an Orderly Shutdown and Orderly Reopening*

NSF's Senior Lapse Team will coordinate communications and actions to conduct and maintain an orderly shutdown. Information for awardees, panelists, and employees will be posted at www.NSF.gov and updated as necessary. NSF will also maintain a limited staff necessary to discharge the President's constitutional duty to participate in the legislative process.

Necessary personnel actions will be processed to separate employees in accordance with applicable law and Office of Personnel Management regulations. Preparation of employee notices related to the lapse and processing of personnel actions in connection with furlough actions, performance of excepted activities, or separation from Federal service are excepted activities.

Payroll will be processed by the Department of the Interior for those days worked prior to the lapse. In addition, the payroll records will be maintained to record the furlough status of non-excepted employees and the on-duty status of excepted employees. No payments for payroll earned or benefit costs incurred during the lapse will be made until a new appropriation is in effect.

[FastLane](#) and [Research.gov](#) proposal preparation and submission will be available; however, proposals will not be processed until normal operations resume. *Ad hoc* reviewers will be able to submit reviews via FastLane. All panels (including virtual panels) scheduled to occur during a lapse in appropriations will be cancelled and will likely be rescheduled to a later date.

In general, no new grants, continuing grant increments, or cooperative agreements will be awarded. The Award Cash Management Service (ACM\$) will be available to process valid payments from prior obligations. Awardees may continue performance under their NSF awards during a lapse in appropriations, to the extent funds are available, and the period of performance of the grant or cooperative agreement has not expired.

- *Protecting Life and Property*

NSF will maintain effective physical and computer security (including information technology and related equipment) for its Headquarters and related facilities. The guards will protect the assets of the Foundation and will limit access to those employees and contractors required to perform excepted activities.

Awardee-operated facilities with government-owned property will continue normal operations to the extent that funding was previously obligated. As those funds are exhausted, at a minimum,

awardee-operated facilities with government-owned property and property acquired in whole or in part under federally sponsored awards will be required to protect life and property and/or provide for an orderly shutdown.

NSF designates the Office of Polar Programs' support of the Antarctic and Arctic programs as an excepted activity in order to respond to emergency situations that might arise.

The Office of Inspector General will maintain staff to support law enforcement and criminal investigation activities as well as monitor and respond to incoming calls to the OIG hotline, including any imminent threats to life or property.

Plan for Performance of Excepted and Exempted Activities

All activities defined above as excepted may be performed on-site or off-site by individuals designated as excepted by NSF management. All other agency functions are non-excepted. All activities defined above as exempted will be performed off-site by exempt personnel, as defined above.